

UTAH RESOURCES INTERNATIONAL, INC.

IBLA 75-127

Decided January 6, 1975

Appeal from a decision of the Utah State Office, Bureau of Land Management, dated August 7, 1974, rejecting coal prospecting permit applications U-26901 through U-26908.

Affirmed.

1. Coal Leases and Permits: Applications

A decision rejecting a coal prospecting permit application will be affirmed where the decision was made pursuant to and in accordance with Secretarial Order 2952 of February 13, 1973.

APPEARANCES: John H. Morgan, Jr., President, Utah Resources International, Inc.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

This is an appeal from a decision rejecting appellant's coal prospecting permit applications. The decision recited that it was made pursuant to Secretarial Order 2952, 38 F.R. 4682 (1973), which directed that all coal prospecting permit applications must be rejected pending further instructions.

Appellant contends that the Secretary's Order is now out of date and should be reviewed in light of the present energy situation and in view of applicant's specific proposed program for exploration and development of coal within the Kaiparowits Plateau as an energy source. Applicant has obtained leases from the State of Utah and states that the federal lands are needed for an economical program.

[1] Secretarial Order No. 2952 of February 13, 1973, precludes the issuance of any new coal prospecting permits pending preparation of a program for more orderly development of the nation's coal resources. It directs that all applications for prospecting permits shall be rejected pending further instructions. Pursuant to the Mineral Leasing Act, 30 U.S.C. § 201(b) (1970), the Secretary is

authorized to issue such instructions. We will review the decision below to assure those instructions were followed. Marvin E. Weaster, 10 IBLA 277 (1973); Richard K. Todd, 68 I.D. 291 (1961); aff'd sub nom. Duesing v. Udall, 350 F.2d 748 (D.C. Cir. 1965), cert. denied, 383 U.S. 912 (1966).

In the instant case BLM correctly applied the instructions of Order 2952 and properly rejected appellant's prospecting permit applications. The Secretary has neither issued new instructions nor relaxed the mandate of Order 2952 requiring rejection of all prospecting permit applications. Until he does, this Board and all other Departmental officials are required to carry out his directive.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision below is affirmed.

Joan B. Thompson
Administrative Judge

I concur:

Martin Ritvo
Administrative Judge

ADMINISTRATIVE JUDGE GOSS CONCURRING:

I concur in the above decision and point out that while the Board of Land Appeals does consider policy matters, Exxon Company, U.S.A., 15 IBLA 345 (1974), any request for changes in Secretarial Order No. 2952 should be addressed to the Assistant Secretary, Energy and Minerals.

Joseph W. Goss
Administrative Judge.

18 IBLA 322

